

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 01-0200P

Sales and Use Tax
For the Calendar Year 2001

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ISSUE

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1; 45 IAC 15-11-2

The taxpayer protests the penalty assessed.

STATEMENT OF FACTS

The taxpayer is an Indiana limited liability company. On May 25, 2001, the taxpayer purchased an aircraft in Oklahoma. On June 4, 2001, the aircraft was flown to Indiana. During the interim period, the aircraft was used outside of Indiana. On July 2, 2001, the taxpayer registered the aircraft with the department by filing an Application for Aircraft Registration or Exemption. At the time of filing, the taxpayer remitted the appropriate aircraft license excise tax and use tax.

DISCUSSION

The taxpayer was assessed negligence penalties for its failure to timely register the aircraft and remit the aircraft license excise tax and use tax.

In a letter dated July 24, 2001, the taxpayer protested the penalty on the use tax assessed based upon the summarized arguments presented below:¹

- Based upon its prior experience, the taxpayer was under the misimpression that it had 31 days after bringing the aircraft into Indiana in which to register the aircraft.
- An aircraft owner cannot be subject to Indiana use tax until the aircraft is “used” in Indiana.
- Regarding aircraft, the imposition of a 10% penalty on the unpaid Indiana use tax could not have been intended by the Indiana General Assembly.
- The taxpayer had reasonable cause for failing to register the aircraft in a timely manner.

IC 6-6-6.5-19(d) states:

(d) If an owner does not register the owner’s aircraft and pay the gross retail or use tax when required by this chapter, the owner shall be subject to a penalty and interest on the unpaid gross retail or use tax as established in IC 6-8.1-10-1.

IC 6-6-6.5-2 requires a resident of Indiana to register an aircraft with the department not later than 31 days after the purchase date. The statute is clear regarding the responsibilities of the taxpayer, and the taxpayer failed to fulfill them in a timely manner.

FINDING

The taxpayer’s protest is denied.

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¹ With its letter dated July 24, 2001, the taxpayer remitted the penalty on the aircraft excise tax and interest on the use tax.